



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Mark Grzan, Mayor Pro Tempore	Mark Grzan, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

WEDNESDAY, DECEMBER 21, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions; and a Special Redevelopment Agency Meeting is called at 7:00 P.M. for Conducting Redevelopment Agency Business.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 2

2.

PUBLIC EMPLOYEE APPOINTMENT

Authority: Government Code 54957
Consideration of Appointment: City Attorney
Attendees: City Manager, Interim City Attorney, Bob Murray

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEM 1

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of

Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

1. [**ADOPT ORDINANCE NO. 1749, NEW SERIES**](#)5
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1749, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1699 NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION DA-04-03: DEWITT-LATALA. (APN 773-08-012)**

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 2

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

2. [**ANNUAL FINANCIAL REPORTS FOR FISCAL YEAR 2004-2005**](#)10
Recommended Action(s):
 1. **Accept** and **File** the Comprehensive Annual Financial Report for the Fiscal Year 2004-2005; and
 2. **Accept** and **File** the Financial Statements for the Redevelopment Agency for Fiscal Year 2004-2005.

City Council Action (Continued)

CONSENT CALENDAR:

ITEM 3

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

3. [**ADOPT ORDINANCE NO. 1750, NEW SERIES**](#)11
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1750, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM O-S, OPEN SPACE TO P-F, PUBLIC FACILITIES ON 2.37 ACRES LOCATED AT 17860 MONTEREY ROAD. (APN 726-24-020) [ZA-05-12: Monterey-City of Morgan Hill/Morgan Hill House].**

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT

PUBLIC COMMENTS ON ITEMS *NOT* APPEARING ON AGENDA

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

NOTICE

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.



CITY COUNCIL STAFF REPORT

MEETING DATE: December 21, 2005

Agenda Item # 1

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1749, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1699 NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION DA-04-03: DEWITT-LATALA. (APN 773-08-012)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1749, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

At a Special Meeting on December 14, 2005, the City Council Introduced Ordinance No. 1749, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1749, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1699 NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION DA-04-03: DEWITT-LATALA. (APN 773-08-012)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 04-038, adopted April 13, 2004, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MMP-03-06: DeWitt-Latala	4 Single-Family Homes

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 9. MODIFICATION TO DEVELOPMENT SCHEDULE. The Council hereby approves an amendment to the development schedule as attached in Exhibit B, and by this reference incorporated herein.

The foregoing ordinance was introduced at the special meeting of the City Council of the City of Morgan Hill held on the 14th Day of December 2005, and was finally adopted at a regular meeting of said Council on the Day of December 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1749, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of December 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

EXHIBIT "B"

REVISED

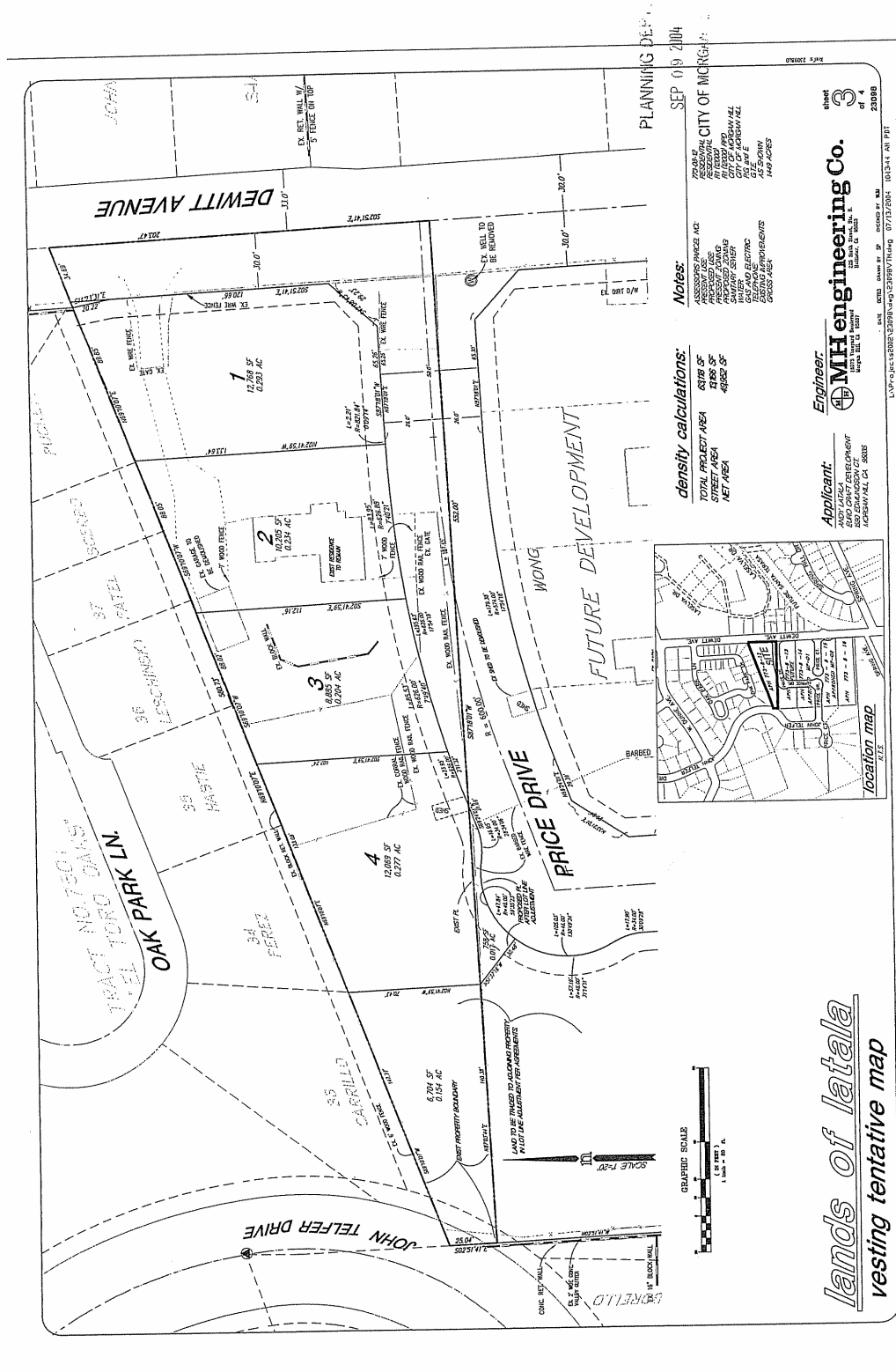
DEVELOPMENT SCHEDULE MMP-03-06: DeWitt-Latala FY 2005-2006(4 units)

I. SUBDIVISION	
Application Filed:	May 1, 2004
II. SITE REVIEW APPLICATION	
Application Filed:	November 1, 2004
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	February 1, 2005
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check:	March 31, 2005
V. BUILDING PERMITS	
Obtain Building Permits	June 30, 2005 March 31, 2006
Commence Construction:	June 30, 2006

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 2 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.





CITY COUNCIL & REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: *December 21, 2005*

ANNUAL FINANCIAL REPORTS FOR FISCAL YEAR 2004/05

RECOMMENDED ACTIONS:

- 1) Accept and file the Comprehensive Annual Financial Report for the Fiscal Year 2004/05
- 2) Accept and file the Financial Statements for the Redevelopment Agency for Fiscal Year 2004/05

Agenda Item # **2**

Prepared By:

Finance Director

Submitted By:

City Manager

EXECUTIVE SUMMARY:

Staff is transmitting two financial documents for the fiscal year 2004/05. The first document is the Comprehensive Annual Financial Report (CAFR), covering all financial activity for the City and related entities, and the second document is the set of financial statements for the Redevelopment Agency. Both documents are being distributed under separate cover. These annual reports are presented for City Council and Redevelopment Agency Board review. Audits of the City's and Agency's financial statements are required by State law. Copies of these documents are on file with the City Clerk and are available at the Morgan Hill Library. A Single Audit of all federal financial assistance was not required this year because the City did not meet the financial assistance threshold that would mandate this audit.

Both reports include audit opinions from independent auditor Moss, Levy & Hartzheim. This is the second year that Moss, Levy & Hartzheim has been engaged as the City's independent financial auditor. The auditor indicated in their opinions that the financial statements for both the City and Agency present fairly their positions as of June 30, 2005, in conformity with generally accepted accounting principles. The auditor's reports are unqualified. The auditors also concluded in their report letter included with the Agency's financial statements that the Agency complied with applicable laws, regulations, contracts, and grants.

The financial statements for both the City and Agency have been formatted, for the third year, to comply with the financial reporting model developed under Governmental Accounting Standards Board Statement 34 (*GASB 34*). It is intended to improve financial reporting by providing additional information not previously available in local government financial statements. Each set of financial statements includes government-wide financial statements designed to provide readers with a broad overview in a manner similar to a private business, including a statement of net assets and a statement of activities.

FISCAL IMPACT:

The financial statements present summaries of Fiscal Year 2004/05 financial activity and present the financial condition of the City and Agency at June 30, 2005. While the City's General Fund still showed a strong reserve level at June 30, 2005, General Fund expenditures exceeded revenues by \$1.1 million if fair value adjustments were excluded from revenues. Further, if \$600,000 in one-time motor vehicle in-lieu fees paid back in 2004/05 to the City by the State for previous take-aways were also excluded, the operating deficit would have been \$1.7 million. While sales tax revenues increased during the year, it is clear that revenues have not kept pace with expenditures as the result of cumulative sales and hotel tax activity, the State's shifting of tax revenues away from cities and counties to deal with its financial problems, and increasing pressures from escalating retirement system and other employee benefit costs. Significant financial challenges still face the City.



CITY COUNCIL STAFF REPORT

MEETING DATE: December 21, 2005

Agenda Item # 3

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1750, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM O-S, OPEN SPACE TO P-F, PUBLIC FACILITIES ON 2.37 ACRES LOCATED AT 17860 MONTEREY ROAD. (APN 726-24-020) [ZA-05-12: Monterey-City of Morgan Hill/Morgan Hill House]

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1750, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

At a Special Meeting on December 14, 2005, the City Council Introduced Ordinance No. 1750, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1750, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM O-S, OPEN SPACE TO P-F, PUBLIC FACILITIES ON 2.37 ACRES LOCATED AT 17860 MONTEREY ROAD. (APN 726-24-020) [ZA-05-12: Monterey-City of Morgan Hill/Morgan Hill House]

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- SECTION 1.** Amending the zoning designation from O-S, Open Space to P-F, and Public Facilities on a 2.37 acre parcel.
- SECTION 2.** There hereby is attached hereto and made a part of this ordinance, a zoning plat entitled "Exhibit A" Map Showing Lands of Morgan Hill Historical Society, being a Part of Ordinance No. 1750, New Series, which gives the boundaries of the described parcels of land.
- SECTION 3.** The proposed zone amendment is categorically exempt under Section 15305 of the State CEQA Guidelines.
- SECTION 4.** The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.
- SECTION 5.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 6.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the special meeting of the City Council of the City of Morgan Hill held on the 14th Day of December 2005, and was finally adopted at a regular meeting of said Council on the Day of December 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

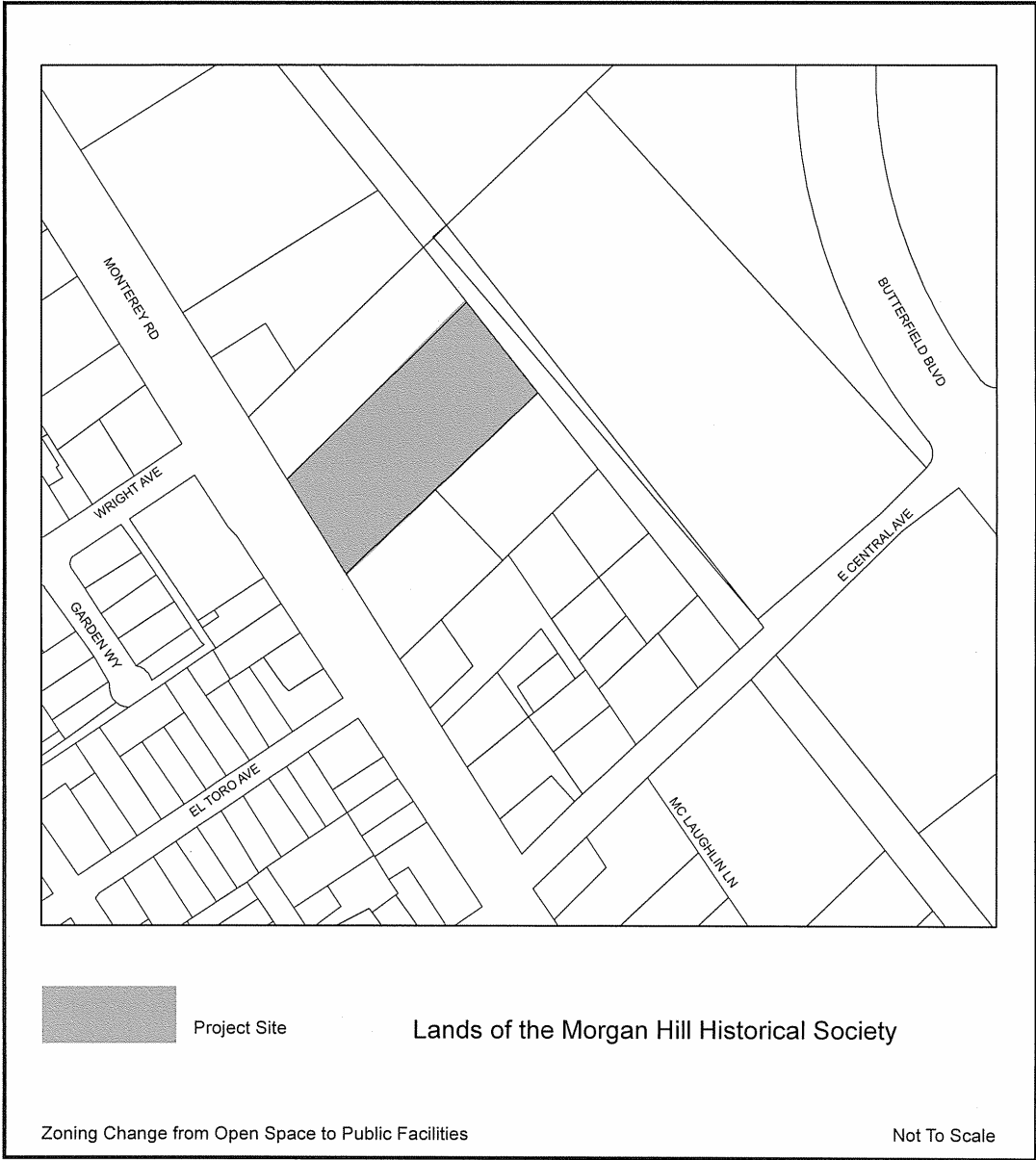
∞ CERTIFICATE OF THE CITY CLERK ∞



I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1750, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of December 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



 <p>CITY OF MORGAN HILL Prepared by Community Development Department</p>	<p>EXHIBIT A</p> <p>ZA-05-12: Monterey-City of Morgan Hill</p> <p>APN 726-24-020</p>  <p><small>R:\PLANNING\Maps\Illustrator maps\Vicinity Maps\Zoning Amendment\ZA-05-12 Monterey-City of Morgan Hill Exhibit A.pdf</small></p>
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